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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/720,268	04/23/2001	Egbert Berend Holtkamp	P66318US0	2525

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EXAMINER

YIP, WINNIE S

ART UNIT

PAPER NUMBER

3637

DATE MAILED: 07/08/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/720,268

Applicant(s)

HOLTKAMP, EGBERT BEREND

Examiner

Winnie Yip

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 April 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 April 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3. 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This is a first office action for application Serial No. 09/720,268 filed April 23, 2001 which is filed under 35 U.S.C. 371 of international application No. PCT/ NL99/00444 filed July 12, 1999.

#### ***Specification***

1. The interlineations or cancellations made in the specification or amendments to the claims could lead to confusion and mistake during the issue and printing processes.

Accordingly, the portion of the specification or claims as identified below is required to be rewritten before passing the case to issue. See 37 CFR 1.125 and MPEP § 608.01(q). In this application, the specification, page 3, lines 10-13 and page 4, lines 9-10 (the amended sheets), those interlineations without applicant's initial signature can not be enter properly. Correction is required.

#### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the features "detachable fastening means provided along at least two edges" (claims 17 and 28), and "edge flaps for covering the interspaces" (claims 18 and 30), "waterproof edge strips adjacent the fastening means" (claim 29) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 2-3, 5, 7-8, 10, 15, 23-24, and 39-40 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

These claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors. For example:

Regard to claim 2, it is not clear where the “at least one of the covering panels (5) is fitted, and it is not the covering panels (5) being “at least partially detachable” as relative to what elements. Clarification is required.

Regarding claims 3 and 23, the term “relatively narrow” is a relative term which renders the claim indefinite that one of ordinary skill in the art would not be reasonably apprise of the scope of the invention. It is confusing how the edge strips (4) being relatively narrowed.

Regard to claims 5 and 24, the recited term “the opening” lacks proper an antecedent basis. It is not clear what is meant by “the opening left clear by the relatively narrow edge strip is closed off by a relatively open”. Clarification is required.

Regarding claims 7-8, 10, the phrase "or/and the like" renders the claims indefinite and renders the scope of the claims unascertainable.

Regarding claim 15, the phrase “at the location of at least one of the tent poles” is confusing since the recited features “the location” and the “at least one tent poles” have not been previously defined.

Regarding claims 39-40, it is confusing whether or not “a basic panel” and “a covering panel” of these claims are different than “a basic panel” and “one or more covering panels” of previous claim 21. If not, proper antecedent basis is required.

Regarding claim 10, the use of the trademark “**Velcro**” fasteners has been noted in this application. It causes confusion as to the scope of claimed invention. The claim scope is uncertain since the trademark name “**Velcro**” cannot be used properly to identify any particular material or product. In fact, the value of a trademark would be lost to the extent that it became descriptive of a product, rather than used as an identification of a source or origin of a product. Thus, the use of a trademark in a claim to identify or describe a material or product would not only render a claim indefinite, but would also constitute an improper use of the trademark. Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

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- (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or
- (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

4. Claims 1-35, and 38-40, as better understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Smith (US patent No. 1,833,095).

Smith discloses a tent construction being manufactured, comprising steps of:

manufacturing a basic tent construction having at least one panel formed by a number of relatively narrow edge strips providing a plurality of basic roof panels (2) and a plurality of basic wall panels (1,3) made from a suitable material such as breathing cloth (11, 13), a plurality of covering panels (11, 5, 10) made of waterproof material being partially detached to the respective basic panels with a double-walled design, the outer covering panel being detachable to the inner basic panels along the edges of the outer covering panel by fastener means such as edge flaps (19) to form parts of the roof or outer walls of the tent structure, an interspace being formed between the inner basic panel (2, 3) and the outer covering panels (10, 11), the roof panels having holes for receiving tent poles (12a) of a frame of the tent, each outer covering panel having one or more tensioning means such as guy ropes (7) and hooks (13) for stretching and tautening the covering panels to open and close the interspaces between the inner basic panel and the outer covering panel, and the door panel formed on the wall panel (10) providing an expansion member to enable putting the covering panel (10) partially into an outwardly open position as claimed (see fig. 1).

5. Claims 1-7, 12-14, 16, 20, 21-23, 27, 31, and 33-40, as better understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Hoff (US patent No. 2,527,729).

Hoff discloses and teaches a tent construction being manufactured inherently with steps, comprising: a basic tent construction having at least one basic panel formed by a number of relatively narrow edge strips (12, 10) which are arranged to provide a plurality of roof panels (10) and a plurality of wall panels (12), wherein each of the roof and wall panels has a double-walled design including at least one basic panel/or an inner panel (11, 13) made from a suitable material such as breathing cloth (11, 13), a covering panel/or an outer panel (10, 12) made of waterproof material, an interspace (19) being provided between the basic panel/or inner panel and the covering panel/or the outer panel, a plurality of spacers (15) being disposed between the inner and outer panels, and at least one of the covering panels (5) is provided with guy ropes (20) for stretching out the covering panel (12, 10) for increasing the interspace area such that an insulating layer of air (9) is provided between the inner and outer panels.

6. Claims 1-2, 4, 6-7, 9-10, 12-22, 26-35, and 38-40, as better understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Nicolai (US patent No. 3,970,-96).

Nicolai discloses a tent construction being manufactured, comprising steps of: manufacturing a basic tent construction having a basic inner panel formed by a plurality of narrow edge strips (60) made of desired material such as breathing material, at least one covering panel (31) made of weather-resistant material being detached to the respective narrow edge strips along the edges of the outer covering panel by suitable fastener means to form a roof outer wall of the tent structure, an interspace (63) is formed between the inner basic panel and the outer

covering panels (60, 31), a plurality of flexible rods (19) and ropes (58) providing tensioning means for tensioning, stretching, and taut the covering roof panels to provide an insulating layer of air between the inner and outer panels to open and close the interspace between the base inner panel and the outer covering panel, and an extending member 78) for enable putting the covering panel into an outwardly open position.

7. Claims 1-7, 9-14, 16-24, 26-35, and 38-40, as better understood, are rejected under 35 U.S.C. 102(e) as being anticipated by Yang (US patent No. 5,915,399).

Yang discloses a tent construction as a protective cover being manufactured, comprising steps of: manufacturing a basic tent construction having a basic inner panel formed by a plurality of narrow edge strips (3) made of desired material such as breathing material (2) , at least one outer covering panel (4) made of weather-resistant material being partially detachable to the respective narrow edge strip along the edges of the outer covering panel by suitable fastener means such as by zippers (41) or Velcro fasteners (72) to form an outer wall of the tent structure, and at least one expansion member (42) providing tensioning means for tensioning, stretching, and tautening the covering panel of the tent structure into a closed position (see Fig. 2) and enabling to put the covering panel into an outerwardly open position (see Fig. 1) .

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Gilchrist '134, Sheldon '404, Sharick '830, Thomson '613, and UK Patent No. 2,121,850 teach various tent constructions having a of basic panel formed by number of narrow edge strips

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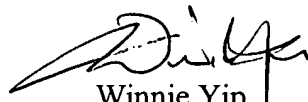
- forming a part of outer wall or roof wall of the tent construction in arrangement as similar to the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Yip whose telephone number is **(703) 308-2491**. The examiner can normally be reached on Monday through Friday from 9:30 AM to 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai, can be reached on (703) 308-2486.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is **(703) 308-1113**.

The Fax phone numbers for this Group are **(703) 872-9326** before Final and **(703) 872-9327** after Final. The Fax phone number for Customer Service for this Group is **(703) 872-9325**.

  
Winnie Yip  
Patent Examiner  
Group Art Unit 3637

June 27, 2002